

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BARRY HARRIS,

Case No. 3:20-cv-00695-MMD-WGC

Petitioner,

ORDER

v.

CALVIN JOHNSON, *et al.*,

Respondents.

In this *habeas corpus* action, the Court appointed counsel for Petitioner Barry Harris, and, with counsel, Harris was due to file an amended habeas petition by May 14, 2021. (ECF Nos. 3, 10.)

On April 12, 2021, Harris filed a motion for stay and abeyance (ECF No. 19), requesting that this action be stayed while he completes the litigation of a state habeas action. Harris states that he filed a timely direct appeal, and the Nevada Supreme Court affirmed his conviction on December 19, 2019. He states that he then filed a state habeas petition on April 21, 2020, and that action remains pending. Harris states that he filed his petition in this federal habeas action as a protective petition. *See Pace v. DeGuglielmo*, 544 U.S. 408, 416–17 (2005). Harris points out that until he completes the litigation of his state habeas action, he will not have exhausted in state court the claims he asserts in that action, and he requests that this action be stayed while he does so. Respondents have filed a notice stating that they do not oppose Harris' motion for a stay. (ECF No. 20).

///

///

///

1 It is therefore ordered that Harris' Motion for Stay and Abeyance (ECF No. 19) is
2 granted. This action is stayed while Harris completes his state habeas action. The
3 Clerk of the Court is directed to administratively close this case.

4 It is further ordered that following the conclusion of Harris' state-court proceedings
5 Harris must, within 30 days, make a motion to lift the stay of this action.

6 It is further ordered that this action will be subject to dismissal if Harris does not
7 comply with the time limits in this Order, or if he otherwise fails to proceed with diligence
8 during the stay imposed by this Order.

9 DATED THIS 23rd Day of April 2021.

10
11 

12 _____
13 MIRANDA M. DU
14 CHIEF UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28